

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ABSOLEM STEVEN-JAMAR THOMAS,

Plaintiff,

v.

Case No. 2:07-cv-141
HON. ROBERT HOLMES BELL

DAVID BERGH, et al.,

Defendants.

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OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S

REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge on . The Report and Recommendation was duly served on the parties. The Court received objections from the Plaintiff. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

In his objections, Plaintiff states that the Magistrate Judge erred in recommending that Defendants' motion for summary judgment be granted and that the case be dismissed. Specifically, Plaintiff claims that Defendants' interference with his outgoing mail to the Calvary Baptist Church New Creations Ministries violated Plaintiff's right to freely practice his religion. However, Plaintiff fails to show how the interference with his mail actually prevented him from practicing his religion. Therefore, this objection lacks merit.

In addition, Plaintiff reasserts his contention that he should be allowed to produce further witnesses and evidence to show that his rights were violated by Defendants. However,

Plaintiff's assertion that he could produce such evidence is vague and conclusory. Such a contention is not sufficient to show the existence of a genuine issue of material fact. Finally, Plaintiff reasserts contentions raised in his response to the Defendants' motion for summary judgment. For the reasons stated by the Magistrate Judge in the report and recommendation, these arguments lack merit.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of the court and Defendant's motion for summary judgment will be granted.

IT IS FURTHER ORDERED that an appeal of this action would not be in good faith within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997). For the same reasons that the Court dismisses the action, the Court discerns no good-faith basis for an appeal. Should plaintiff appeal this decision, the Court will assess the \$255 appellate filing fee pursuant to § 1915(b)(1), *see McGore*, 114 F.3d at 610-11, unless plaintiff is barred from proceeding *in forma pauperis*, e.g., by the "three-strikes" rule of § 1915(g). If he is barred, he will be required to pay the \$455 appellate filing fee in one lump sum. Accordingly, should plaintiff seek to appeal this matter to the Sixth Circuit, the appeal would be frivolous and not taken in good faith.

Dated: September 9, 2008

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE